

REMARKS

Claims 1-25 are currently pending in the application. Applicant hereby cancels claims 21-25, and elects claims 1-20 (Group I and Species I) in response to the restriction requirements of February 14, 2005, and June 7, 2005. Claims 1, 14, 19, and 20 are in independent form.

The following claims have been objected to in the Office Action because of informalities:

In claim 1, line 6, it appears that "a" should be deleted.

In claims 2 and 3, "identifier" has been misspelled.

In claim 19, line 7, it appears that "a" should be deleted.

In response thereto, Applicant has amended the claims according to the suggestions of the Office Action. Reconsideration of the objection is respectfully requested.

Claims 4, 5, and 13 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action holds that in claims 4 and 5, it is impossible for the spreadsheet to be identical to the marked grid. In response thereto, Applicant has amended claims 4 and 5 to change "is identical" to "is designed to have geometric grids corresponding to". Support for this amendment can be found on page 6, lines 13-14: "The sheet 24 includes blank spaces 26 corresponding to the spaces 28 within the container 12." With respect to claim 13, the Office Action holds that it is not understood how a two-dimensional spreadsheet can produce a barcode system. In response thereto, Applicant has amended claim 13 to read "wherein said spreadsheet is at least two-dimensional" to clarify the claim. Based

on these clarifications of the claims, reconsideration of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1-8, 10, 14-17, 19, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application No. 2002/0116845 to Glover. Specifically, the Office Action holds that Glover discloses a marked grid including specific locations 16 and a spreadsheet 22 including designations relating to the locations on the marked grid, such that each of the designations includes details regarding items located in each of the locations. The Office Action holds that the Glover spreadsheet is two-dimensional. Further, paragraph 0016 discloses the subjects of claims 2 and 3; paragraph 0018 discloses the subjects of claims 4, 5, and 16-18; paragraph 0014 discloses the subject of claim 6; and with respect to claim 10, storage container 12 fits the dictionary definition of a "rack". Reconsideration of the rejection under 35 U.S.C. § 102(b), as anticipated by Glover, as applied to the claims is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81 (Fed. Cir. 1986) it was stated: "For prior art to anticipate under §102 it has to meet every element of the claimed invention."

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Glover apparatus includes a first means 18 for identifying a respective compartment 16 that stores an object, and a second means 20 associated with the first means 18 for cross-referencing a corresponding item that the object in the

respective compartment 16 belongs for locating and retrieving the object in the storage receptacle. The invention is directed to the organization and finding of an item (e.g. a button) which is required for a second item (e.g. a shirt). The second means 20 merely contains the same information as the first means 18 in order to cross-reference the corresponding item. The matching of a specific object in the compartment 16 with the corresponding item is facilitated by the use of a previously prepared master list 22 which contains a description of the corresponding item. As shown in Figure 3, the first means 18 of the compartment 16 corresponds to the Item ID on the master list. The other cells of the master list, designated by specific information 24, do not provide positional information to locate the object in the compartment 16, but rather they provide extraneous information such as color, size, and brand name of the corresponding item to the object in the compartment 16 and have nothing to do with the compartment 16 itself. Thus, the object in the corresponding compartment 16 is indexed by only one assignment (e.g. a number under the Item ID). This is a one-dimensional location system.

The spreadsheet is not geometrically identical to the grids shown in the compartment 16. In other words, the first means 18 only tells a user that the object is in that particular compartment 16 somewhere in the storage container and it gives no information as to whether the item is in a first row, a second row, or any other row, column, or space of the storage container. For example, according to Glover, Item ID 10 can be located at any place in the storage container depending on how the compartments 16 are arranged. If five horizontal compartments 16 are divided by one vertical separation in the middle, creating ten compartments 16 total, Item ID 10 will be located in the second row (such as in Figure 1). However, there could be three rows of four compartments 16 each (creating twelve compartments 16), wherein Item ID 10 would be in the third row. Searching for an object with the Glover apparatus is not efficient because there is no way of designating exactly where an

object is. There is no disclosure of the Glover system of where to locate an item efficiently when there is more than one dimension of location possibilities. Neither is there any suggestion in the Glover application that a multi-dimensional location is desired for efficiency, because there is really no harm to the other buttons or a user if it takes the user a longer time to find a particular button.

In contradistinction, the present invention provides for a method and system of locating objects wherein those objects are identified by at least two geometric dimensions. Specifically, the presently pending independent claims are directed to a marked grid including specific locations identified by at least a first geometric dimension and a second geometric dimension and a spreadsheet including designations relating to the locations on the marked grid, such that each of the designations includes details regarding items located in each of the locations, wherein each of the designations corresponds to at least the first and second geometric dimensions of the marked grid. By checking the spreadsheet for a desired item, the exact location of that item can be located in a container because each cell of the spreadsheet has designations corresponding to a specific location designated by at least two dimensions in the container. The locations of the compartments of the container are produced by vertical and horizontal partitions of the container which correspond to a geometrically matching cell in the spreadsheet (which is produced by a partition of space by vertical and horizontal lines). Thus, each compartment of the container is identified by a unique position, corresponding to a unique cell in the spreadsheet. "For example, if two non-adjacent surfaces 14, 14" of the container are labeled with the letter B [first dimension] and the other two non-adjacent surfaces 14', 14"' are labeled with a number 6 [second dimension], a space within the grid would be designed B6." (Page 5, lines 14-16) The space in the grid B6 corresponds to a specific cell of the spreadsheet as in Figure 2 – column B (corresponding to the first dimension), row 6 (corresponding to the second dimension). This provides for

efficient location of items: "Knowing in advance the location of the vial in a refrigerator or a freezer saves effort of the user and minimizes loss of energy used to keep a refrigerator and a freezer at cold temperature." (Page 6, lines 25-27) The color identifier in the present invention is used to distinguish one container from another in a freezer or refrigerator and allows for a user of the spreadsheet to quickly identify which container corresponds to a particular spreadsheet. The color identifier is not used to locate a specific compartment, which requires designations corresponding to a particular set of dimensions of the marked grid. In order to accurately identify the location of an item in the container, use of designations in a spreadsheet corresponding to each dimension of the container is needed.

Therefore, since the Glover application does not disclose a system and method of locating objects by identifying those objects by at least two geometric dimensions in a grid that correspond to designations in a spreadsheet as set forth in the presently pending independent claims, the claims are patentable over the Glover application and reconsideration of the rejection is respectfully requested.

Claims 11 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Glover application in view of U.S. Patent No. 6,352,286 to MacWilliams, et al. The Office Action holds that Glover discloses the invention substantially as claimed. However, the indicia on the grid and spreadsheet do not include a barcode. MacWilliams, et al. teaches that it was known in the art to include a barcode along with other identifying indicia, in order to make the indicia machine-readable. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a barcode along with the other indicia disclosed by Glover, as taught by MacWilliams, et al., in order to make the indicia machine-readable. Reconsideration of the rejection under 35 U.S.C. §103(a), as being

unpatentable over the Glover application in view of the MacWilliams, et al. patent is respectfully requested.

It is Hornbook Law that before two or more references may be combined to negate patentability of a claimed invention, at least one of the references must teach or suggest the benefits to be obtained by the combination. This statement of law was first set forth in the landmark case of Ex parte McCullom, 204 O.G. 1346; 1914 C.D. 70. This decision was rendered by Assistant Commissioner Newton upon appeal from the Examiner-in-Chief and dealt with the matter of combination of references. Since then many courts have over the years affirmed this doctrine.

The applicable law was more recently restated by the Court of Appeals for the Federal Circuit in the case of ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572,1577, 221 U.S.P.Q. 929 (Fed. Cir. 1984). In this case the Court stated, on page 933, as follows:

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103 teachings of references can be combined only if there is some suggestion or incentive to do so. The prior art of record fails to provide any such suggestion or incentive. Accordingly we hold that the court below erred as a matter of law in concluding that the claimed invention would have been obvious to one of ordinary skill in the art under section 103."

This Doctrine was even more recently reaffirmed by the CAFC in Ashland Oil, Inc. v. Delta Resins and Refractories, Inc., et al., 776 F.2d 281,297, 227 U.S.P.Q. 657,667 (Fed. Cir. 1985). As stated, the District Court concluded:

"Obviousness, however, cannot be established by combining the teachings of the prior art to produce the claimed invention unless there was some teaching, suggestion, or incentive in this prior art, which would have made such a combination appropriate."

The Court cited ACS Hospital Systems, Inc. in support of its ruling. This Doctrine was reaffirmed in In re Deuel, 34 USPQ2d 1210 (Fed. Cir. 1995).

MacWilliams, et al. discloses a file folder with integrated identifying indicia such as a barcode. As explained above, the Glover application does not disclose the present invention as described in the presently pending independent claims. Glover does not disclose a system of locating objects in at least two geometric dimensions of a marked grid with a spreadsheet including cells that correspond to each of the geometric dimensions, but rather a one-dimensional (non-geometric) system for finding an object. Thus, the combination of the Glover apparatus with the barcode of MacWilliams, et al. necessarily does not result in the present invention.

Neither does Glover suggest that such a detailed system is needed, nor does Glover suggest that its own system is insufficient so that a barcode identifier would be needed. Glover is directed to locating buttons for a shirt. While efficiency in locating a button is desired, it is not as crucial to know the exact location of the object to be found as the subject of the present invention. A user of the Glover apparatus would not look to the barcode of MacWilliams, et al. to further facilitate the location of buttons because in Glover's apparatus, a user must still search for the compartment in which the object is located, as its location information is only one dimensional. Therefore, a barcode would not make searching for or locating objects within the storage receptacle of Glover any easier; it would only tell the user of the Glover apparatus that a particular button is in a container but not its exact location.

The present invention requires knowing the exact location of an object (sample) in at least two geometric dimensions of a marked grid so that it can be retrieved quickly from a freezer or refrigerator for the safety of the user and other samples located in the freezer or refrigerator. The barcode of the present invention

further facilitates the identification of objects in a container 12, wherein "the barcode 32 enables information to be obtained with regard to the container 12 based solely on the barcode 32." (Page 5, lines 25-26) Before the present invention, a barcode has not been incorporated into an organization system in which each space of a grid in a storage container is identified by at least two geometric dimensions and including a spreadsheet having designations corresponding to each geometric dimension.

Since neither the cited references of Glover and MacWilliams, et al. alone or in combination with knowledge in the art suggest the method and system of locating objects by geometric dimensions of a marked grid with a spreadsheet having designations corresponding to each of the geometric dimensions alone or in combination with a barcode to identify a container and its contents as in the currently claimed invention, it is consequently respectfully submitted that the claims are clearly patentable over the combination, even if the combination were to be applied in opposition to applicable law, and reconsideration of the rejection is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above, and the prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In view of the present amendment and foregoing remarks, reconsideration of the rejections and advancement of the case to issue are respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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